UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Martin Victoriano GARCIA,

Petitioner,

v.

Raul MALDONADO, in his official capacity as Warden of the Metropolitan Detention Center; LaDeon FRANCIS, in his official capacity as Acting Field Office Director of New York Immigration and Customs Enforcement; Markwayne Mullin in his official capacity as Secretary of Homeland Security; Todd BLANCE, in his official capacity as Atttorney General.

Respondents.

Case No.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Martin Victoriano Garcia ("Mr. Garcia") is the latest victim of immigration authorities' lawless enforcement practices in collusion with local police on Long Island. Since early 2025, Nassau County has been a hotbed of immigration enforcement activity, where ICE has partnered closely with local law enforcement and encouraged a muscular and sometimes unsupportable interpretation of the U.S. immigration laws. In March 2025, the Nassau County Police Department and ICE executed a formal cooperation agreement, described by Nassau County Executive Bruce Blakeman as "the most comprehensive agreement with ICE in probably any county in America."[1] Publicly available reporting discloses that, since then, Nassau County police

[1] ABC 7 News, Nassau County on Track to Detain 3,000 people for ICE This Year (Oct. 15, 2025), https://abc7ny.com/post/nassau-county-track-detain-3000-people-ice-year-part-agreement-homeland-security/18012453.

have redirected a substantial portion of their work towards immigration "raids" and detentions, detaining some 3,000 people on behalf of ICE last year.[2]

Mr. Garcia's arrest by local police and subsequent detention by ICE is a violation of the fourth and fifth amendments of the Constitution. Additionally, Mr. Garcia can only assume that he is being held under the Respondents' recently concocted legal theory that individuals like Petitioner must be summarily and indefinitely detained under 8 U.S.C. § 1225(b)(2), a theory recently rejected by the Second Circuit. *See Barbosa da Cunha v. Freden*, 25-3141-PR (2d Cir. 2026). Mr. Garcia's arrest and detention are unlawful, and he asks that a writ issue ordering his immediate release and barring the Respondents from attaching any additional conditions on his liberty absent specific justification and leave of this Court.

JURISDICTION

1. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq*., and the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706.

2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

3. Mr. Garcia is in custody for the purposes of habeas jurisdiction because he is subject to restraints on his liberty not imposed on the general public. *Hensley v. Municipal Court*, 411 U.S. 345, 348–49 (1973); *Rumsfeld v. Padilla*, 542 U.S. 426, 437 & n.10 (2004); *Nowakowski v. New*

[2] Liz Veazey, Hochul Proposed Banning ICE Collaboration Contracts. Here's What You Need to Know, New York Focus (Jan. 31, 2026), https://nysfocus.com/2026/01/31/hochul-sanctuary-ice-immigration-287g-jail-bill.

York, 835 F.3d 210, 215–16 (2d Cir. 2016). Petitioner is in the physical custody of Respondents. On information and belief, Mr. Garcia is detained at the Metropolitan Detention Center ("MDC"), in Brooklyn, NY. Ex. 1 (Screenshot of ICE Detainee Locator).

4. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

5. Venue lies in this District Court, the judicial district in which Mr. Garcia was recently arrested and is currently detained.

6. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, because a substantial part of the events or omissions giving rise to the claims occurred in this district, and no real property is involved in this action.

7. Additionally, venue is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to Petitioner's claims have occurred within this District, including processing after his arrest by Respondents, and his ICE detention under the oversight of the ICE New York Field Office.

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

9. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

10. Petitioner Martin Victoriano Garcia, a resident of Long Island for about fifteen years, was the unfortunate victim of local police's collusion with ICE on Long Island. On April 18, 2026, he was arrested by local police officers in his cousin's driveway in Westbury, NY. He and his cousin were getting out of the car after coming back from the grocery store. Local police arrested him, placed him in a holding cell for multiple hours, and called immigration authorities. Immigration authorities questioned Mr. Garcia and took him into custody. On information and belief, he is currently detained at MDC. *See* Ex. 1.

11. Respondent Raul Maldonado is named in his official capacity as the warden of the Metropolitan Detention Center in Brooklyn, NY, where Mr. Garcia is currently being held. As such, he is the custodian of Petitioner. Respondent Maldonado's office is located at 80 29th Street, Brooklyn, NY 11232, and his mailing address is MDC Brooklyn, P.O. Box 329001, Brooklyn, NY 11232.

12. Respondent LaDeon Francis is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Francis's address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

13. Respondent Markwayne Mullin is named in his official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Southern District of New York; is legally responsible for

pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Mullin's address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, District of Columbia 20528.

14. Respondent Todd Blanche is named in his official capacity as the Acting Attorney General of the United States. In this capacity, he is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). He routinely transacts business in the Southern District of New York and is legally responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, he is a custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

STATEMENT OF FACTS

15. On information and belief, Mr. Garcia entered the United States in or around 2010 from Mexico. Upon arrival in the United States, he settled in Westbury, NY, where some of his cousins live. He has lived Westbury ever since. When he first arrived to Long Island, he worked in a restaurant. He now works in a bakery, where he has been baking cakes, cookies, pastries and bread for about 15 years. Mr. Garcia's sister and brother live in Philadelphia.

16. Mr. Garcia was arrested in his cousin's driveway by local police in Nassau County on April 18, 2026, in Westbury, NY. Mr. Garcia's and his cousin had just returned from grocery shopping. Mr. Garcia's cousin drove. After arriving at the cousin's home, they exited the car in the driveway to go into the house when local police approached them. Local police arrested Mr. Garcia, but not his cousin, and placed him in a holding cell. Police told Mr. Garcia that they would release him, but, instead they called immigration authorities.

17. Local police held Mr. Garcia shackled in a holding cell for 2 to 3 hours until officers arrived and began asking Mr. Martin questions about his identity and his immigration case without identifying themselves. When Mr. Martin asked who they were, they identified themselves as immigration officers. Mr. Martin was then taken into ICE custody.

18. This is Mr. Martin's first contact with American immigration authorities since he entered the United States in or around 2010.

19. Other than the April 18, 2026, arrest, Mr. Garcia has never been arrested. Upon information and belief, Mr. Garcia may have an open case in Nassau County related to the April 18, 2026, arrest, although counsel has been unable to verify this.

20. Mr. Garcia is now being held at the MDC in Brooklyn. *See* Ex. 1.

LEGAL FRAMEWORK

Detention

21. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. Such civil detention is authorized for specific, non-punitive purposes. *See Demore v. Kim*, 538 U.S. 510, 528 (2003); *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018).

22. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). The same line delineates ICE's authority to set its own bond and release prior to IJ review. 8 C.F.R. § 236.1.

23. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

24. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

26. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[3] claims that all persons who entered the United States without inspection shall now be subject to the mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

27. On September 5, 2025, the Board adopted this same position in a published decision, *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

28. This week, the Second Circuit joined the vast majority of District Court decisions on this question and rejected the government's interpretation of the INA's detention authorities. *See Barbosa da Cunha*, 25-3141-PR. Since Respondents adopted their new policies, hundreds of

[3] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

29. Specifically, the Second Circuit rejected the government's argument that a noncitizen who lived in the United States since entering unlawfully around 2004 was "seeking admission" and therefore subject to detention under § 1225. *See Barbosa da Cunha*, 25-3141-PR. In declaring that the noncitizen was held under § 1226, the Second Circuit stated that "[t]he government's attempt to muddy these textually clear waters defies the statute's context, structure, history, and purpose; contradicts the Supreme Court's dicta in *Jennings* and longstanding Executive Branch practice; and it's interpretation of the statute raises serious constitutional questions that should be avoided even if the statutory language were ambiguous." *Id.* at *61.

30. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

Violation of Warrantless Arrest Statute

31. ICE officers' authority to conduct warrantless arrests is prescribed in 8 U.S.C. § 1357(a)(2). That statute requires that officers have "reason to believe" a person is in the U.S. in violation of laws and "is likely to escape before a warrant can be obtained for his arrest." That assessment must be individualized. In order to comport with the Fourth Amendment, it requires probable cause that each of the two criteria is met.

32. Since 2025, ICE officers on Long Island have routinely violated this statute through a campaign of detentions without administrative warrants, which result in the jailing of individuals like Petitioner without any individualized consideration of the necessity of detention as required under the statute. *See Garcia-Lanza v. Noem*, 26-cv-29, 2026 WL 585130 at *10 (E.D.N.Y. March

3, 2026) ("A groundswell of caselaw responding to the recent onslaught of immigration enforcement efforts document troubling practices, while facts elicited in similar, ongoing cases have provided further evidence that the problems identified in these pages may be widespread.")

33. ICE often attempts to mask the warrantless nature of these detentions through issuance of an ex-post-facto administrative warrant and Notice to Appear. Many courts have condemned this practice as unlawful. *See Gopie v. Lyons*, No. 25-CV-05229-SJB, 2025 WL 3167130, at *1 (E.D.N.Y. Nov. 13, 2025) (finding reliance on an administrative warrant issued prior to a Notice to Appear it "had no authority to do so" and that alone "is a dispositive and independent basis to grant the writ"). Despite these condemnations, "the practice has continued unabated for months." *Parada Cruz v. Mullin*, No. 26-CV-1110-SJB, 2026 WL 1027441, at *5 (E.D.N.Y. Apr. 16, 2026); *see also Alfaro v. Mullin*, No. 26-0766 (GRB), 2026 WL 734348, at *5 (E.D.N.Y. Mar. 16, 2026) ("officers' testimony confirmed that this illegal practice has become standard procedure for ICE enforcement efforts in this district").

Fourth Amendment Prohibition of Unreasonable Searches and Seizures

34. The Fourth Amendment protects individuals against "unreasonable searches and seizures." U.S. Const. amend. IV. Noncitizens present in the United States enjoy the same Fourth Amendment protections as citizens. *Zuniga-Perez v. Sessions*, 897 F.3d 114, 122 (2d Cir. 2018).

35. The Supreme Court has recognized three categories of police interactions. "Consensual" interactions do not implicate Fourth Amendment protections "so long as the police do not convey a message that compliance with their requests is required." *United States v. Tehrani*, 49 F.3d 54, 58 (2d Cir. 1995) (quoting *Florida v. Bostick*, 501 U.S. 429, 435 (1991)). Temporary investigative detentions require that the detaining officer have a reasonable, articulable suspicion

of criminal activity. *Id.* Arrests, the most intrusive type of police encounter, must be supported by probable cause. *Id.*

36. An officer making a traffic stop of an individual in an automobile must "have probable cause or reasonable suspicion that the person stopped has committed a traffic violation or is otherwise engaged in or about to be engaged in criminal activity." *United States v. Wallace*, 937 F.3d 130, 137 (2d Cir. 2019). Reasonable suspicion demands "specific and articulable facts" supporting the detaining officer's suspicion. *Id.* at 138. Race and ethnicity are not reasonable grounds for a stop. *Zuniga-Perez*, 897 F.3d at 124 ("As the Supreme Court has made abundantly clear, stopping and interrogating people based solely on race or ethnicity violates the Fourth Amendment.").

37. "Even if lawful at its inception, a traffic stop 'can violate the Fourth Amendment if its manner of execution unreasonably infringes interests protected by the Constitution.'" *Wallace*, 937 F.3d at 137–38 (quoting *Illinois v. Caballes*, 543 U.S. 405, 407 (2005)). An officer may not prolong a traffic stop after completing "tasks tied to the traffic infraction," such as checking the driver's license and searching for outstanding criminal warrants, without reasonable suspicion of criminal activity. *Id.* Any investigation "must be as minimally intrusive as possible." *Tehrani*, 49 F.3d at 58.

38. Furthermore, "[a]n illegal stop invalidates a [detainee's] consent to search unless the Government can demonstrate that the taint of the unlawful stop 'had been dissipated before the consent was given.'" *United States v. Murphy*, 778 F. Supp. 2d 237, 255 (N.D.N.Y. 2011).

39. "Because civil immigration violations do not constitute crimes, suspicion or knowledge that an individual has committed a civil immigration violation, by itself, does not give a law enforcement officer probable cause to believe that the individual is engaged in criminal

activity." *Santos v. Frederick Cnty. Bd. Of Comm.*, 725 F.3d 451, 465; *see also Ortega-Melendres v. Arpaio*, 836 F. Supp. 2d 959, 976 (D. Ariz. 2011) (probable cause or even actual knowledge of vehicle passengers' unlawful presence, without more, "does not provide officers with reasonable suspicion that the passengers are violating any law that local law enforcement officers can enforce"). In addition, state and local officers, except for those individuals expressly authorized to perform federal immigration enforcement under a valid 287(g) agreement, "cannot rely on federal immigration officials' probable cause determinations." *Orellana v. Cnty. Of Suffolk*, 2025 WL 481723, at *15 (E.D.N.Y. Jan. 2, 2025).

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Release on Bond

40. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

41. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. Specifically, it does not apply to Mr. Garcia, who entered without inspection and has been living in the United States since the early 2000s prior to being detained by respondents in April 2026.

42. Mr. Garcia was never an "arriving alien," as he did not present himself at a port of entry, nor subject to the "entry fiction" that comes with parole, "whereby noncitizens are physically permitted to enter the country but are nonetheless treated for legal purposes as if stopped at the border." *Martinez v. Hyde*, 792 F. Supp. 3d 211, 216 (D. Mass. 2025) (quoting *Dep't of Homeland Sec. v. Thuraissigam*, 591 U.S. 103, 139 (2020)).

43. Respondents' unlawful application of § 1225(b)(2) to Petitioner at the time of arrest and through his continuing detention violates the INA.

COUNT TWO

Violation of the Administrative Procedure Act

44. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

45. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious. 5 U.S.C. § 706(2)(A).

46. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). An agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

47. Respondents' decision to detain Petitioner as part of their coordinated campaign with local police in Long Island, irrespective of the individual circumstances in Petitioner's case, and then to subject him to mandatory detention, is arbitrary and capricious.

COUNT THREE

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

48. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

49. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas*, 533 U.S. 678; *Demore*, 538 U.S. 510.

50. Mr. Garcia's detention violates the both the substantive and procedural components of the Due Process Clause. Mr. Garcia has been a law-abiding resident of the United States for approximately 15 years. Respondents' policy of treating all individuals who have not been admitted to the United States as subject to mandatory detention, and thus avoiding any individualized consideration of danger and flight risk has now been applied to Mr. Garcia, and that application violates his rights.

51. Respondents' detention of Mr. Garcia under § 1225(b)(2) without any procedural protections violates due process of law. "Petitioner's mandatory detention is not authorized by § 1225, serves no legitimate purpose, and amounts to punitive detention, warranting habeas relief." *Rivera Zumba*, No. 25-CV-14626 (KSH), 2025 WL 2753496, at *10 (D.N.J. Sept. 26, 2025).

COUNT FOUR

Violation of the Fourth Amendment of the U.S. Constitution

52. Petitioner repeats and re-alleges all allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

53. Upon information and belief, local police officers had no probable cause or reasonable suspicion to apprehend Mr. Garcia in his cousin's driveway.

54. Because the local police officers had no reasonable suspicion that Mr. Garcia had engaged in any traffic violation or criminal activity, their stop was an unlawful seizure in violation of the Fourth Amendment.

55. Because the Nassau County officers seized Mr. Garcia unlawfully, any consent given by Mr. Garcia to search his person was invalid.

56. Because the Nassau County officers arrested Mr. Garcia based on the fruits of an unlawful search, they lacked probable cause. Their arrest of Mr. Garcia, and thus their transfer of Mr. Garcia to ICE custody, violated the Fourth Amendment.

57. Detention in violation of the Fourth Amendment is recognized as a ground for habeas relief. *See Munoz Materano v. Arteta*, 804 F. Supp. 3d 395, 426; *Urquilla-Ramos v. Trump*, 2026 WL 475069, at *18 (S.D.W.Va. Feb. 19, 2026) ("A challenge to one's confinement necessarily implicates the legality of the process that led to the individual's detention."). And the federal government may not rely on unconstitutional acts by third parties in order to escape the constraints imposed by the Constitution. *United States v. Janis*, 478 U.S. 433, 445 (1976).

58. Furthermore, Respondents' actions violated 8 U.S.C. § 1357, the statute governing warrantless arrests. On information and belief, no Notice to Appear was issued for Petitioner until after he was detained by ICE. As a result, any administrative warrant issued either concurrent to or shortly after his detention is invalid and his detention lacked any authority—which is a sufficient basis to grant the writ. *Gopie*, No. 25-CV-05229-SJB, at *1.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Petitioner's transfer out of the New York City area;
3. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;

4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the Immigration and Nationality Act and implementing regulations;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody without additional restraints on his liberty, including attachment of a GPS monitoring device;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
7. Grant such further relief as this Court deems just and proper.

DATED this 29th of April.
New York, NY

Respectfully Submitted,

/s/ Tosca Giustini
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VERIFICATION

I am submitting this verification on behalf of the Petitioner. We discussed this matter with the Petitioner's spouse the events described in this Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 29th of April, 2026.
New York, NY

Respectfully Submitted,

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